

STATE OF NEW YORK
SUPREME COURT COUNTY OF SARATOGA

U.S.DISTRICT COURT, NORTHERN DISTRICT OF NEW YORK

SWF, L.P. and BBL CONSTRUCTION SERVICES, LLC,
trading as BBL ALBANY GROUP V,

Petitioners,

v.

Index Number: 2011-2563

RJI No. 45-1-2011-1032

Case no. 1:11-CV-1025 (NAM/DRH)

SPA STEEL PRODUCTS CO., et al

Respondents

NOTICE OF REMOVAL

TO: The United States District Court
for the Northern District of New York

Respondent/Defendant Internal Service. by its attorney, RICHARD S. HARTUNIAN,
United States Attorney for the Northern District of New York, Barbara D. Cottrell, Assistant
United States Attorney, of counsel, respectfully petitions the Court to remove the captioned
action from Supreme Court, County of Saratoga, State of New York, to the United States District
Court for the Northern District of New York, pursuant to Title 28 U.S.C. §§ 1442(a)(1) and
1444. In support of this petition, counsel for the Internal Revenue Service respectfully
represents that:

1. The Internal Revenue is a respondent/defendant in the above-captioned civil
action now pending in Supreme Court, County of Saratoga, State of New York.
2. Upon information and belief, the office of the United States Attorney was served
with an Order to Show Cause and Petition. The Order to Show Cause and Petition seek a
judgment pursuant to CPLR § 5239, determining claims and lien priorities with respect to

judgment enforcement against the certain real property commonly known as 47 Excelsior Avenue, City of Saratoga, Springs, County of Saratoga, Tax Map No. 166.29-2-9. The Order to Show Cause and Petition, less Exhibits, are attached hereto as Exhibit A.

3. Upon information and belief, the Internal Revenue Service has two (2) perfected Notices of Federal Tax liens against SPA STEEL PRODUCTS INC., in the respective amounts of \$ 105,319.46 and \$ 18,431.37 (Attached as Exhibit B).

4. Pursuant to 26 U.S.C. § 6321, a Notice of Federal Tax Lien attaches to all property and rights to property, whether real or personal, belonging to the taxpayer. The issue in the State Court proceeding involves issues of the priority of Notices of Federal Tax Liens issued pursuant to 26 U.S.C. §§ 6321, 6322 ,and 6323, and state court judgment and lien creditors.

5. 28 U.S.C. § 1442(a)(1) provides that a civil action against an agency of the United States, such as is set forth in the plaintiff's Complaint, may be removed to an appropriate District Court of the United States.

6. 28 U.S.C. § 1444 provides that a foreclosure action, brought against the United States pursuant to 28 U.S.C. § 2410 may be removed by the United States to an appropriate District Court of the United States.

WHEREFORE, the Internal Revenue Service respectfully requests that the above-captioned matter now pending in the Supreme Court, County of Saratoga, State of New York, be removed to the United States District Court for the Northern District of New York, pursuant to 28 U.S.C. §§ 1442 (a)(1) and 1444

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Dated: August 29, 2011

Respectfully submitted,

RICHARD S. HARTUNIAN
United States Attorney

By: s/Barbara D. Cottrell
Barbara D. Cottrell
Assistant U. S. Attorney
Bar Roll No. 101411